

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 531 Florida Retirement System  
**SPONSOR(S):** Weatherford and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Government Efficiency & Accountability Council		Camara/Dykes	Cooper
2) Policy & Budget Council			
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

Medical examiners and certain forensic employees were added to the Special Risk Class in 2005. This bill permits these medical examiners and forensic employees to purchase additional retirement credit to upgrade their previous service in the Florida Retirement System to Special Risk Class service. The bill requires the contributions for upgrading previous service to equal the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest. The bill permits, but does not require, an employer to purchase upgraded credit on behalf of a member.

The bill increases the contribution rate for the Special Risk Class by 0.01 percent for all employers with employees in the Special Risk Class.

This bill has a recurring fiscal impact of \$108,000 on state government and \$299,000 on local governments, in Fiscal Year 2008-2009.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0531.GEAC.doc  
**DATE:** 4/21/2008

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases the number of Special Risk Class members who may upgrade previous service to Special Risk Class service.

### B. EFFECT OF PROPOSED CHANGES:

#### BACKGROUND

##### FLORIDA RETIREMENT SYSTEM

Chapter 121, F.S., is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.<sup>1</sup>

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 164 cities and 209 independent special districts that have elected to join the system.<sup>2</sup>

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for over 680,000 active members,<sup>3</sup> 264,000 retirees and surviving beneficiaries,<sup>4</sup> and 31,000 Deferred Retirement Option Program participants.<sup>5</sup> Members of the FRS belong to one of five membership classes:

1. Regular Class <sup>6</sup>	588,204 members	86.46% of membership
2. Special Risk Class <sup>7</sup>	74,224 members	10.91% of membership
3. Special Risk Administrative Support Class <sup>8</sup>	74 members	0.01% of membership
4. Elected Officers' Class <sup>9</sup>	2,078 members	0.31% of membership
5. Senior Management Service Class <sup>10</sup>	7,562 members	1.11% of membership <sup>11</sup>

Each class is funded separately through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, F.S.<sup>12</sup>

##### SPECIAL RISK CLASS

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,<sup>13</sup> might need to retire at an earlier age with less service than other

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<sup>1</sup> Section 121.025, F.S.

<sup>2</sup> Department of Management Services, Division of Retirement: Florida Retirement System Annual Report, July 1, 2006 – June 30, 2007 (on file with the Committee on State Affairs) at 91 [hereafter referred to as FRS Annual Report].

<sup>3</sup> *Id.* at 43.

<sup>4</sup> *Id.* at 52.

<sup>5</sup> *Id.* at 49.

<sup>6</sup> Section 121.021(12), F.S.

<sup>7</sup> Section 121.0515, F.S.

<sup>8</sup> Section 121.0515(7), F.S.

<sup>9</sup> Section 121.052, F.S.

<sup>10</sup> Section 121.055, F.S.

<sup>11</sup> FRS Annual Report at 43.

<sup>12</sup> *See, e.g.,* s. 121.055(3)(a)1., F.S.

types of employees. As such, members of the Special Risk Class can retire at age 55 or with 25 years of creditable service.<sup>14</sup> Members of the Special Risk Class also earn a higher normal retirement benefit of three percent of the member's average final compensation.<sup>15</sup> These increased benefits are funded through higher employer contribution rates: 19.76 percent of gross compensation, effective July 1, 2007, and 22.01 percent, effective July 1, 2008.<sup>16</sup>

Special Risk Class membership includes law enforcement officers, correctional officers, and firefighters;<sup>17</sup> emergency medical technicians and paramedics;<sup>18</sup> community-based correctional probation officers;<sup>19</sup> certain employees of correctional or forensic facilities or institutions;<sup>20</sup> youth custody officers;<sup>21</sup> and employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline.<sup>22</sup>

#### SPECIAL RISK CLASS – UPGRADED SERVICE

Another legislative trend has followed the expansion of the Special Risk Class: allowing members who have previous service in another class of the FRS, usually the Regular Class, to purchase additional retirement credit to upgrade that previous service to Special Risk Class service. In 2001, the Legislature permitted emergency medical technicians and paramedics to purchase credit for such upgraded service.<sup>23</sup> In 2002, the Legislature allowed members whose responsibilities included fire prevention or fire fighting training to purchase credit for upgraded service.<sup>24</sup>

#### **PROPOSED CHANGES**

This bill permits medical examiners and certain forensic employees to purchase additional retirement credit to upgrade prior service in the FRS to Special Risk Class service. The cost to upgrade previous service to Special Risk Class service is the difference between the contributions paid into the previous class and the Special Risk Class contribution rate in effect for the claimed period, plus interest at a rate of 6.5 percent per year, compounded annually until the payment date. Since most service would have been in the Regular Class, the retirement credit accrual rate (and the resulting benefits) would nearly double for the affected period – from the Regular Class accrual rate of 1.6 percent to the Special Risk

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<sup>13</sup> Section 125.0515(1), F.S. (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

<sup>14</sup> Section 121.021(29), F.S., defines normal retirement date, which contrasts with members of the Regular Class who can retire at age 62 or with 30 years of creditable service.

<sup>15</sup> Section 121.091(1)(a)2.h., F.S. (compared with 1.60 percent to 1.68 percent for Regular Class members).

<sup>16</sup> Section 121.71(3), F.S. (compared with 8.69 percent, effective July 1, 2007, and 9.59 percent, effective July 1, 2008, for Regular Class members).

<sup>17</sup> Ch. 78-308, L.O.F.; codified as s. 121.0515, F.S.

<sup>18</sup> Ch. 99-392, L.O.F., s. 23.

<sup>19</sup> Ch. 2000-169, L.O.F., s. 29.

<sup>20</sup> *Id.* (The following employees must spend at least 75 percent of their time performing duties which involve contact with patients or inmates to qualify for the Special Risk Class: dietician, public health nutrition consultant, psychological specialist, psychologist, senior psychologist, regional mental health consultant, psychological services director-DRC, pharmacist, certain senior pharmacists, dentist, senior dentist, registered nurse, senior registered nurse, registered nurse specialist, clinical associate, advanced registered nurse practitioner, advanced registered nurse practitioner specialist, registered nurse supervisor, senior registered nurse supervisor, registered nursing consultant, quality management program supervisor, executive nursing director, speech and hearing therapist, and pharmacy manager).

<sup>21</sup> Ch. 2001-125, L.O.F., s. 43.

<sup>22</sup> Ch. 2005-167, L.O.F., s. 1; codified as s. 121.0515(2)(h), F.S. (The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility; the forensic discipline must be recognized by the International Association for Identification and the member must qualify for active membership in the International Association for Identification).

<sup>23</sup> Ch. 2001-235, L.O.F., s. 6.

<sup>24</sup> Ch. 2002-273, L.O.F., s. 16.

Class accrual rate of 3.0 percent, per year of service. The bill permits, but does not require, an employer to purchase upgraded credit on behalf of a member.

The bill requires an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class to fund this benefit.

The bill provides legislative findings and declares that it fulfills an important state interest.

C. SECTION DIRECTORY:

Section 1 amends s. 121.0515, F.S., to permit medical examiners and certain forensic employees to purchase upgraded service in the Special Risk Class.

Section 2 provides an overall increase of 0.01 percent in the employer contribution rate for the Special Risk Class.

Section 3 provides legislative findings and declares that the bill fulfills an important state interest.

Section 4 provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Based on the results of the actuarial special study, the required employer contribution rate increase (if effective July 1, 2008) would result in the following fiscal impact:<sup>25</sup>

- FY 08/09 \$108,000
- FY 09/10 \$112,000
- FY 10/11 \$117,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Based on the results of the actuarial special study, the required employer contribution rate increase (if effective July 1, 2008) would result in the following fiscal impact:<sup>26</sup>

- FY 08/09 \$299,000
- FY 09/10 \$311,000
- FY 10/11 \$324,000

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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<sup>25</sup> Department of Management Services HB 531 (2008) Substantive Bill Analysis (Jan. 30, 2008; Rev. Apr. 4, 2008) at 11 (on file with the Government Efficiency & Accountability Council) [hereafter referred to as DMS Analysis].

<sup>26</sup> *Id.* at 10.

D. FISCAL COMMENTS:

The Department of Management Services offered the following fiscal note from the enrolled actuary:

The cost to be paid by the eligible Special Risk Class members or employers on behalf of their employees to upgrade the service is not sufficient to fully pay for this kind of benefit enhancement. Any costs not covered by this individual pricing structure and the 0.01% increase in the Special Risk Class employer contribution rate would be shifted to the system and could result in further increased contribution rates for all employers with Special Risk Class members. The additional fiscal impact of this provision is not realized until the eligible members actually upgrade their service credit for forensic service prior to the position being covered by the Special Risk Class and could vary depending on how the total members vary from our projection. There is an additional cost beyond the estimate if members delay purchasing their service credit until just before retirement.<sup>27</sup>

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

This bill is expected, however, to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Because the bill provides that it fulfills an important state interest and the expenditures required by the bill appear to apply to all persons similarly situated, including state and local governments, the bill appears to satisfy the requirements of s. 18, Article VII of the Florida Constitution.

2. Other:

Article X, s. 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.<sup>28</sup> Because the bill requires the contribution rate that applies to the Special Risk Class to be increased by 0.01 percentage points to fund this benefits increase, it appears to satisfy this constitutional requirement.<sup>29</sup>

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

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<sup>27</sup> *Id.* at 11.

<sup>28</sup> Part VII of chapter 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of article X section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees that is funded in whole or in part by public funds.

<sup>29</sup> DMS Analysis at 10.

According to the Department of Management Services:

This bill could create a precedent for more employee groups covered by the Special Risk Class to seek the ability to upgrade previous service. This change would make the benefits of the Special Risk Class even more attractive and could lead to more employee groups seeking to be covered by the Special Risk Class. Each successive group granted the ability to have retroactive service credit upgrades creates additional system cost that will surface in future valuations and experience studies, regardless of the size of the group. The actuarial special study projected about 1,200 employees would upgrade their previous forensic service. When other employee groups are as large or larger than the forensic employees, the costs could be greater than the 0.01% for this group. There is always an additional fiscal impact to the FRS for upgraded service beyond the difference in employer contribution rates plus interest, regardless of whether the group covered by upgrade positions is large enough to trigger a specific rate increase at the time the change becomes law.

Special Risk Class membership for a member employed in an eligible forensic position with a specified employer is determined individually and is not related only to the holding of a forensic position because the certification requirement is not a requirement for employment in these positions. This requirement is unique compared to the emergency medical technicians, paramedics, firefighter training positions, and fire prevention positions that are the only other positions that have been granted the ability to upgrade prior service in those positions to the Special Risk Class value. The individual eligibility requirements and the status of the employer as a law enforcement agency or medical examiner's office for Special Risk Class participation by members employed in forensic positions could pose additional challenges for determination of eligible service for upgrade.

Additionally, since any Special Risk Class member may upgrade service as a forensic employee of an eligible employer regardless of current position held, the Division may not have already reviewed the work currently being performed and certification eligibility of the member and agency records needed for determination may be difficult to locate.<sup>30</sup>

#### D. STATEMENT OF THE SPONSOR

No sponsor statement submitted.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.

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<sup>30</sup> *Id.* at 12-13.